

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3795 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.22709 OF 2019
IN
FIRST APPEAL (STAMP) NO.17272 OF 2018
WITH
FIRST APPEAL (STAMP) NO.17272 OF 2018**

Bajaj Allianz General Insurance Co.
Ltd.

...Appellant

Versus

Smt. Amruta Gopal Asrani and Ors.

...Respondents

.....

Mr. D.S. Joshi for the Appellant in FAST/17272/2018 and for the Applicant in CAF/3795/2018 and for the Respondents in CAFST/22709/2019.

Mr. Satyajeet P. Dighe for the Respondent Nos.1 to 3 in FAST/17272/2018 and CAF/3795/2018 and for the Applicant in CAFST/22709/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 23rd SEPTEMBER, 2019.

P.C.:-

ORDER IN CIVIL APPLICATION NO.3795 OF 2018:-

The learned counsel for the Applicant states that the challenge is restricted only to the quantum of compensation awarded by the Claims Tribunal. Hence, notice to Respondent No.5-Insured is dispensed with.

2. By this application, the Applicant has sought to condone the delay of 165 days in filing the Appeal against the judgment and award dated 21st September, 2017 passed by the learned Member, Motor Accident Claims Tribunal, Nashik in M.A.C.P No.399 of 2013.

3. Having considered the reasons stated in paragraph 4 of the application, which in my considered view constitute sufficient cause, the delay is condoned subject to payment of costs of Rs.2,000/- to be paid to the Juvenile Justice Fund within a period of two weeks.

4. The application stands disposed of.

ORDER IN FIRST APPEAL (STAMP) NO.17272 OF 2018:-

5. The Appeal be registered subject to removal of office objections, if any. Mr. Satyajeet Dighe, the learned counsel waives service of notice on behalf of the Respondent Nos.1 to 3. Service to Respondent No.5 is dispensed with. The Appeal be listed for admission on 21/10/2019.

ORDER IN CIVIL APPLICATION (STAMP) NO.22709 OF 2019:-

6. By this application, the Applicants have sought withdrawal of the compensation awarded by the Claims Tribunal by the impugned judgment dated 21st September, 2017.

7. By the impugned judgment, the Claims Tribunal awarded total compensation of Rs.21,60,000/-with an interest @ 6% p.a. from the date of petition till its realization. It is stated that the Applicant No.1 is a housewife and has no other source of income and the Applicant Nos.2 and 3 are school/college students and that they have no other source of income.

8. Having considered the reasons stated in the application, so also the grounds raised in the Appeal memo, 30% of the compensation alongwith proportionate interest accrued thereon is ordered to be withdrawn. Out of the said 30%, 20% of the compensation be paid to the Applicant No.1, out of which 5% shall be received by the Applicant No.1 on behalf of the Applicant No.3 to enable her to meet her education expenses and remaining 10% be paid to the Applicant No.2. Withdrawal of the compensation is subject to an undertaking to be filed before the Tribunal that in the event the Appellant succeeds, the

Respondents will refund the amount. The Tribunal to re-invest the balance compensation in any Nationalised Bank until further orders.

9. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)